

**NOTICE OF PREPARATION OF A SUBSTITUTE ENVIRONMENTAL DOCUMENT (SED) AND
NOTICE OF PUBLIC SCOPING MEETING FOR THE NORTH COAST INSTREAM FLOW POLICY**



PROJECT LOCATION / POLICY AREA

If you would like to remain on the mailing list and receive future announcements about the North Coast Instream Flow Policy, please provide a mailing address and/or email address below and return this form by August 25, 2006, to the State Water Resources Control Board, Division of Water Rights: Karen Niiya; P.O. Box 2000, 1001 I Street, 14th Floor; Sacramento, CA 95812-2000

Name	Agency	Email	
Street	City	State	Zip Code

Notice of Preparation

Form B

To: State Clearinghouse, Governor's Office of Planning and Research
(Agency)
P.O. Box 3044
(Address)
Sacramento, CA 95812-3044

Subject: Notice of Preparation of a Draft Substitute Environmental Document

Lead Agency:	Consulting Firm (If applicable):
Agency Name <u>State Water Resources Control Board</u>	Firm Name <u>North State Resources, Inc.</u>
Street Address <u>P.O. Box 2000, 1001 I Street, 14th Floor</u>	Street Address <u>1321 20th Street</u>
City/State/Zip <u>Sacramento, CA 95812-2000</u>	City/State/Zip <u>Sacramento, CA 95814</u>
Contact <u>Karen Niiya or Eric Oppenheimer</u>	Contact <u>Kerri Mikkelsen Rose</u>

The State Water Board's Division of Water Rights (Division) will prepare a Substitute Environmental Document for the proposed North Coast Instream Flow Policy. Although the adoption of state policy for water quality control is exempt from the California Environmental Quality Act (CEQA) requirement to prepare a Negative Declaration or an Environmental Impact Report, (Cal. Code Regs., tit. 14, §§ 15250, 15251, subd. (g)), a Substitute Environmental Document must be prepared for the project. The Substitute Environmental Document will evaluate the potential environmental impacts of the policy and any alternatives or mitigation measures necessary to avoid any significant environmental impacts.

The Division is seeking comments from trustee agencies and interested persons concerning the scope and content of the environmental information to be included in the Substitute Environmental Document.

Please send your response to **Karen Niiya or Eric Oppenheimer** at the address shown above. We will need the name for a contact person in your agency.

The Environmental Checklist may be obtained via the Internet on the State Water Board Website at: http://www.waterrights.ca.gov/HTML/instreamflow_nccs.html

You may also receive a copy by writing to the Division of Water Rights, State Water Resources Control Board; 1001 I Street, 14th Floor, P.O. Box 2000; Sacramento, CA 95812, or by contacting Karen Niiya or Eric Oppenheimer at (916) 341-5426, FAX: (916) 341-5400, email: FlowPolicy@waterboards.ca.gov

Project Title: North Coast Instream Flow Policy Substitute Environmental Document

Project Location: Not applicable Napa, Marin, Sonoma, Humboldt & Mendocino
City (nearest) Counties

Name Victoria A. Whitney Signature  Date 7/19/06
Title Chief, Division of Water Rights, State Water Resources Control Board Telephone (916) 341-5426

DATE: July 19, 2006
TO: Distribution List
FROM: State Water Resources Control Board, Division of Water Rights (Division)
SUBJECT: North Coast Instream Flow Policy – Notice of Preparation of a Substitute Environmental Document and Notice of Scoping Meeting

Effective January 1, 2005, Assembly Bill 2121 (Stats. 2004, ch. 943, § 3) added section 1259.4 to the Water Code, which requires the State Water Resources Control Board (State Water Board) to adopt principles and guidelines for maintaining instream flows in coastal streams from the Mattole River to San Francisco and in coastal streams entering northern San Pablo Bay, for purposes of water right administration (North Coast Instream Flow Policy).

The purpose of this Notice of Preparation is: (1) to advise trustee agencies and interested persons that the State Water Board intends to prepare a Substitute Environmental Document for the North Coast Instream Flow Policy, and (2) to seek input on significant environmental issues, reasonable alternatives, and mitigation measures that should be addressed in the Substitute Environmental Document. (No responsible agencies exist for this project because no other agency has authority to carry out or approve the North Coast Instream Flow Policy. Other agencies may have authority to carry out or approve activities that will be subject to the policy, but the project in this case is the policy itself, not the activities that may be subject to the policy.)

Responses to this Notice of Preparation must be received in writing by the close of business on August 25, 2006. Responses must be received on schedule to allow complete consideration of all concerns.

A public scoping meeting has been scheduled to explain the policy and provide other information to trustee agencies and the interested public. The public scoping meeting will also provide agency personnel and concerned public citizens the chance to submit written comments concerning the range of actions, policy alternatives, mitigation measures, and significant effects that should be analyzed in the Substitute Environmental Document. The public scoping meeting has been scheduled for:

Two Sessions | 3:00 PM – 5:00 PM or 5:30 – 7:30 PM | **August 16, 2006** |
North Coast Regional Water Quality Control Board; 5550 Skylane Blvd., Suite A; Santa Rosa, CA

1.0 Project Description

The primary objective of the proposed project is to develop a State Water Board policy that provides, through the State Water Board's administration of water rights, for the maintenance of instream flows in coastal streams from the Mattole River to San Francisco Bay and in coastal streams entering northern San Pablo Bay. The policy is likely to address the State Water Board's administration of water right applications; small domestic use and livestock stockpond registrations; existing permits and licenses; change petitions, including transfers, time extensions, and wastewater change petitions. In addition, the Division proposes to include an enforcement element as part of the policy that will govern water right enforcement actions in the coastal streams described above.

In developing the policy, Water Code section 1259.4 authorizes the State Water Board to consider the Draft "Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams," which were developed in 2002 by the National Marine Fisheries Service (NMFS) and the California Department of Fish and Game (DFG) (NMFS-DFG Draft Guidelines). Accordingly, the Division proposes to evaluate in the Substitute Environmental Document a policy based on the NMFS-DFG Draft Guidelines.

The NMFS-DFG Draft Guidelines were recommended for use by permitting agencies (including the State Water Board), planning agencies, and water resources development interests when evaluating proposals to divert water from northern California coastal streams. The NMFS-DFG Draft Guidelines were developed to protect and restore anadromous salmonids and their habitat. The Division currently considers the NMFS-DFG Draft Guidelines when reviewing water right applications, but the guidelines have not been adopted as formal State Water Board policy. The NMFS-DFG Draft Guidelines are available at: <http://swr.nmfs.noaa.gov/hcd/policies/Waterdiversion%20guidelines.pdf>

The NMFS-DFG Draft Guidelines recommend that terms and conditions be included in new water right permits for small diversions to protect fishery resources in the absence of site-specific biologic and hydrologic assessments. (Small diversions are defined as direct diversions of three cubic feet per second or less, or diversions to storage of 200 acre-feet per annum or less.) Specifically, the NMFS-DFG Draft Guidelines recommend:

- limiting new water right permits to diversions during the winter period (December 15–March 31) when stream flows are generally high;
- maintaining minimum bypass flows and cumulative maximum rates of diversion to ensure that streams are adequately protected from new winter diversions;
- conserving the natural hydrograph and avoiding significant cumulative impacts by limiting the maximum cumulative volume of water that can be diverted in a watershed;
- constructing storage ponds off-stream rather than on-stream; and
- providing fish screens and fish passage facilities where appropriate.

The Division anticipates that the policy that will be evaluated in the Substitute Environmental Document will cover the same issues as the NMFS-DFG Draft Guidelines, but specific details or criteria may differ. For example, the policy may be expanded to cover small domestic use and livestock stockpond registrations, change petitions, and time extension petitions.

2.0 Project Location / Policy Area

The North Coast Instream Flow Policy will cover the same geographic area as the NMFS-DFG Draft Guidelines, including all coastal streams from the mouth of the Mattole River south to San Francisco Bay and coastal streams entering northern San Pablo Bay. This area includes approximately 5,900 stream miles and encompasses 3.1 million watershed acres (4,900 square miles) including all of Marin and Sonoma counties and portions of Napa, Mendocino, and Humboldt counties (policy area), as indicated on the map.

3.0 Potential Alternatives

No policy alternatives have yet been identified as of the issuance of this Notice of Preparation. The Division seeks additional data and input on policy alternatives from trustee agencies, Tribes, and the interested public. At a minimum, any proposed policy alternatives must be designed to maintain instream flows in coastal streams through water right administration, as required by Water Code section 1259.4. The Division will consider all comments and available and relevant information received during the scoping process.

4.0 Probable Environmental Effects to be Analyzed in the Substitute Environmental Document

The adoption of the North Coast Instream Flow Policy is a certified regulatory program, and therefore is exempt from the requirement to prepare an Environmental Impact Report or Negative Declaration. (Cal. Code Regs., tit. 14, §§ 15250, 15251, subd. (g).) The Division has determined that a Substitute Environmental Document is required for the proposed project. It has also determined that the following environmental issue areas will be evaluated in the Substitute Environmental Document: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Recreation, and Utilities and Service Systems.

For purposes of CEQA, the proposed project is adoption of the North Coast Instream Flow Policy. The policy itself will not approve any particular water diversion projects. Moreover, in general, the policy will operate to protect the environment by ensuring that water rights are administered in a manner designed to maintain instream flows. Adoption and implementation of the policy could, however, lead diverters to take actions that could result in indirect environmental impacts.

Future actions that could occur as a result of adoption and implementation of the policy include the removal of existing, on-stream storage reservoirs and the construction of off-stream storage reservoirs. These construction activities could cause short-term impacts such as the following: increases in sediment discharged to streams due to construction or dam removal, temporary visual disturbances due to earthwork activities and vehicular traffic, temporary increases in air pollution from particulate matter and ozone, potential for site-specific erosion, temporary use of hazardous materials, temporary noise impacts, and temporary increases in solid waste generation.

The removal of on-stream reservoirs as a result of adoption and implementation of the policy also could cause long-term impacts. These could include: loss of wetlands, which could adversely affect species that rely on those wetlands for habitat and food; changes to channel and floodplain maintenance processes and riparian zone characteristics, which could affect habitat conditions; a reduction in available storm flow storage capacity, which could cause increased runoff during storm events, increased potential for downstream flooding, increased sedimentation, the potential for mudflow, and the potential for downstream dam failures; a reduction in emergency fire suppression water supplies; and a loss of recreational opportunities such as swimming and fishing.

Adoption and implementation of the policy also could lead water diverters to switch to alternative water supplies in order to avoid any limitations applicable to new water right applications that may be contained in the policy. Some diverters might switch to groundwater pumping, which could impact groundwater levels, potentially resulting in a reduction in summer instream flows. Other diverters might choose to directly divert under riparian rights, instead of seasonally storing water, for which a permit is required. An increased reliance on riparian rights could result in increased surface water diversions during the spring, summer, and fall, potentially reducing instream flows to levels that might cause reductions in or loss of habitat. Decreases in summer groundwater elevations and instream flows due to groundwater pumping and riparian diversions could result in the loss of riparian vegetation. The loss of riparian vegetation could affect terrestrial and aquatic species that rely on riparian vegetation for habitat and food and lead to declines in water quality, such as increased water temperature and fine sediment levels. Finally, some diverters might choose to cease diverting altogether, and fallow lands that are currently being irrigated, or switch to dryland farming, or convert existing farmland to non-agricultural uses.

The Substitute Environmental Document will analyze any policy alternatives or mitigation measures that would minimize or avoid the potential environmental impacts described above.

Please send your comments regarding the North Coast Instream Flow Policy Substitute Environmental Document to the address below. When submitting your comments, please identify a contact person in case we have any questions about the comments.

Attention: Karen Niiya or Eric Oppenheimer
State Water Resources Control Board
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